

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

KAREN KAYE ARMSTRONG,)
)
Plaintiff,)
)
v.) Case No. CIV-21-00107-STE
)
ANDREW M. SAUL, Commissioner of)
Social Security,)
)
Defendant.)

ORDER

On February 17, 2021, United States Magistrate Judge Shon T. Erwin issued a Report and Recommendation (Dkt. 3) in this action, recommending that Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Dkt. 2) be denied because, “[a] review of Plaintiff's Application demonstrates that she has the ability to pay the \$402.00 filing fee.”¹ Plaintiff reports that she “has \$4,000.00 in a checking or savings account[,]” and “further advises that her net monthly income is \$1,565.00[,]” while listing “a total of \$1,219.00 in monthly expenses.”² Accordingly, “Plaintiff's monthly income exceeds her monthly expenses by approximately \$266.00[,]” demonstrating that she has enough income and assets to warrant the requirement that fees be paid.³ The Magistrate Judge further recommends that the action be dismissed without prejudice to

¹ R. & R. (Dkt. 3) at 2.

² *Id.*

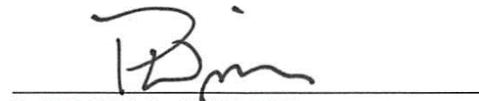
³ *Id.*

refiling unless the Plaintiff pays the full \$402.00 filing fee within twenty-one (21) days of any order adopting the Report and Recommendation.

The Plaintiff was advised that she had a right to object to the Report and Recommendation by March 3, 2021, and that failure to make a timely objection would waive any right to appellate review of the *in forma pauperis* issue. No objections have been filed as of this date. Having failed to object, Plaintiff has waived her right to appellate review of the factual and legal issues addressed in the Report and Recommendation (Dkt. 3).⁴ Upon review, the Court:

- (1) **ADOPTS** in full the Report and Recommendation (Dkt. 3) issued by the Magistrate Judge on February 17, 2021;
- (2) **DENIES** Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Dkt. 2); and
- (3) **DIRECTS** Plaintiff to pay the filing fee within twenty-one (21) days of this Order—i.e., on or before Friday, April 2, 2021—or else have her action dismissed without prejudice to refiling.

IT IS SO ORDERED this 12th day of March 2021.



PATRICK R. WYRICK
UNITED STATES DISTRICT JUDGE

⁴ *United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1059–60 (10th Cir. 1996); *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); cf. 28 U.S.C. § 636(b)(1) (requiring a district judge to “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made” but otherwise permitting a district judge to review the report and recommendations under any standard it deems appropriate).